

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

Rev. Jan. 2012

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THE WAVE STUDIO, LLC,

Plaintiff(s),

**CIVIL CASE DISCOVERY PLAN
AND SCHEDULING ORDER**

- against -

TRIVAGO N.V., TRIVAGO SERVICES US, LLC,
TRIP.COM GROUP LIMITED, TRIP.COM TRAVEL
SINGAPORE PTE. LTD., SKYSCANNER LTD.,
MAKEMYTRIP INDIA PVT. LTD.,
MAKEMYTRIP.COM, INC.,

Defendant(s).

7:23 CV 03586 (NSR)

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This Civil Case Discovery Plan and Scheduling Order is adopted, after consultation with counsel, pursuant to Fed. R. Civ. P. 16 and 26(f):¹

1. All parties [~~consent~~] [do not consent] to conducting all further proceedings before a Magistrate Judge, including motions and trial, pursuant to 28 U.S.C. § 636(c). The parties are free to withhold consent without adverse substantive consequences. (If all parties consent, the remaining paragraphs of this form need not be completed.)
2. This case [is] [~~is not~~] to be tried to a jury.
3. Joinder of additional parties must be accomplished by January 15, 2024.
4. Amended pleadings may be filed until January 31, 2024.
5. Interrogatories shall be served no later than February 6, 2024, and responses thereto shall be served within thirty (30) days thereafter. The provisions of Local Civil Rule 33.3 [shall] [~~shall not~~] apply to this case.
6. First request for production of documents, if any, shall be served no later than February 6, 2024.
7. Non-expert depositions shall be completed by August 30, 2024.
 - a. Unless counsel agree otherwise or the Court so orders, depositions shall not be held until all parties have responded to any first requests for production of documents.
 - b. Depositions shall proceed concurrently.
 - c. Whenever possible, unless counsel agree otherwise or the Court so orders, non-party depositions shall follow party depositions.

¹ Defendants, other than the Trip.com Defendants, do not oppose discovery proceeding on the timeline included in this joint proposal, provided that discovery proceeds against all Defendants. To the extent that there is a stay of discovery as to the Trip.com Defendants, the position of the Defendants other than the Trip.com Defendants, is that discovery should be stayed as to all Defendants in the interests of judicial economy and in order to “secure the just, speedy and inexpensive determination” of this action. Fed. R. Civ. P. 1.

8. Any further interrogatories, including expert interrogatories, shall be served no later than September 10, 2024.
9. Requests to Admit, if any, shall be served no later than September 10, 2024.
10. Expert reports shall be served no later than October 4, 2024.
11. Rebuttal expert reports shall be served no later than November 5, 2024.
12. Expert depositions shall be completed by November 26, 2024.
13. Additional provisions agreed upon by counsel are attached hereto and made a part hereof.
14. **ALL DISCOVERY SHALL BE COMPLETED BY** December 3, 2024.
15. Any motions shall be filed in accordance with the Court's Individual Practices.
16. This Civil Case Discovery Plan and Scheduling Order may not be changed without leave of Court (or the assigned Magistrate Judge acting under a specific order of reference).
17. The Magistrate Judge assigned to this case is the Hon. Victoria Reznik.
18. If, after entry of this Order, the parties consent to trial before a Magistrate Judge, the Magistrate Judge will schedule a date certain for trial and will, if necessary, amend this Order consistent therewith.
19. The next case management conference is scheduled for _____, at _____ . (The Court will set this date at the initial conference.)

SO ORDERED.

Dated: White Plains, New York

Nelson S. Román, U.S. District Judge

Footnote Continued...

The Trip.com Defendants' position is as follows: The Court's Nov. 29, 2023 Order states "Defendants Trivago N.V.1, Despegar.com Corp., and Despegar.com USA, Inc. ('Defendants') have each filed an Answer, dated November 8, 2023 (ECF Nos. 62, 64), to The Wave Studio, LLC's ('Plaintiff') Second Amended Complaint, dated June 5, 2023 (ECF No. 41). Thus, the Court waives the Initial Pre-Trial Conference requirement and directs the parties to submit a proposed Case Management Plan and Scheduling Order (blank form attached hereto) by November 30, 2023." Given both the context and the language of this order, the Trip.com Defendants do not believe that the Court intended by this Order to put them on the same schedule as other defendants who have already answered. In accordance with the Court's Nov. 6, 2023 Order waiving the pre-motion conference requirement and setting a briefing schedule, the Trip.com Defendants will soon be filing a motion to dismiss that will fully dispose of the claims against them. There is good cause to stay discovery pending the resolution of this motion, as the Trip.com Defendants will demonstrate in the pre-motion letter they are filing shortly requesting a discovery stay under Fed. R. Civ. P. 26. The Trip.com Defendants have no objection if Plaintiff wishes to agree to a global stay of discovery even though Plaintiff's claims against different defendants are based on distinct acts of alleged infringement and discovery could proceed separately. Plaintiff does not agree with Trip.com's position.